

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-169490

DATE: OCT 9 1975

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MATTER OF:

Jack E. Wells - Reimbursement of real estate expenses incident to transfer to and from Okinawa

DIGEST:

Employee who was transferred from the U.S. to Okinawa, and subsequently transferred back to the U.S. may not be reimbursed real estate expenses incurred incident to the sale and purchase of a residence incident to the transfers as the statute and implementing regulations require that both the old and new duty stations are located in the U.S. Okinawa was not territory or possession of the U.S. before its reversion to Japan B-182999, June 3, 1975.

This matter concerns a request for reconsideration of settlement certificate Z-2585617, June 27, 1975, issued by our Transportation and Claims Division. The certificate disallowed Mr. Jack E. Wells' claim, as a civilian employee of the Department of the Army, for reimbursement of real estate expenses incurred in connection with transfer from Okinawa to Anniston Army Depot, Alabama.

Mr. Wells states that in July 1971 he was transferred from Sharpe Army Depot, Lathrop, California, to Okinawa, with return rights to Sharpe. In October 1974 he was transferred from Okinawa to Anniston Army Depot, Alabama. Mr. Wells contends that the return from Okinawa to Anniston is tantamount to a transfer from Sharpe Army Depot to Anniston Army Depot or a return from Okinawa to Sharpe and subsequent transfer to Anniston. He concludes that since both Sharpe and Anniston are within the continental United States he is by statute entitled to reimbursement of the real estate expenses incurred in connection with the sale of his residence in Okinawa and the purchase of a residence in Alabama.

First, we agree with our Transportation and Claims Division that the actual transfer here was from Okinawa to Anniston and not from Sharpe to Anniston. This cannot be construed as equivalent to a transfer that was not effected. Cf. B-182002, May 29, 1975. Thus, the transfer to be considered here is one from Okinawa to Anniston Army Depot.

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The statute applicable here is 5 U.S.C. 5724a(a)(4) (1970). That section permits government payment of the expenses incurred in the sale of the residence of an employee at his old duty station and in the purchase of a residence at his new station, provided both the old and new station are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. The legislative history of this statute makes it clear that Congress understood and intended that both the old and new station had to be located in the United States or in the other territories and possessions referred to in the statute as a condition to the allowance of the expenses from the sale or purchase of a residence. B-176452, February 21, 1973.

This statute was implemented by section 4.1a of OMB Circular No. A-56, Revised August 17, 1971, and para. 2-6.1a of the FTR (May 1973). Both of these regulations embody the same restrictions as the statute. Similar provisions are contained in 2 J.T.R. para. C8350-1 item 1.

The issue to be resolved, therefore, is whether Okinawa is among the territories and possessions covered by the statute. We have recently considered the same issue arising under the same statute and we held that Okinawa has never been among the territories and possessions of the United States for this purpose. B-182999, June 3, 1975, 54 Comp. Gen. ____.

Thus, upon reconsideration the settlement of June 27, 1975, by the Transportation and Claims Division disallowing Mr. Wells' claim is affirmed.

Thomas D. Morris

Acting Comptroller General
of the United States